

REMARKS**Summary of the Amendments**

By the foregoing amendment, claims 1 and 3 have been amended, whereby claims 1 and 3-7 remain pending. Of the pending claims, claim 1 is independent.

The amendment made herein is being made without expressing agreement and/or acquiescence with the rejections of record, and is merely being made in an attempt to advance the present application to allowance. Applicants preserve their right to present any subject matter that was present in the claims prior to the present amendment in one or more continuation and/or divisional applications, and to present arguments for patentability of such subject matter.

Support for the amendments to the claims can be found in Applicants' originally filed application. For example, support appears in the paragraph beginning at page 6, the paragraph beginning in the middle of the page as well as Applicants' Examples. Accordingly, no new matter should be considered to have been added.

Discussion of Telephone Interview

Applicants express appreciation for the courtesies extended by Supervisory Patent Examiner Frederick Krass and Examiner Lezah W Roberts during a July 10, 2008 telephone interview.

During the interview, the rejections of record, particularly the rejection based upon Sanker et al., were discussed, with the Examiners appearing to maintain their position that a *prima facie* case of obviousness has been established in the rejections.

With respect to the Declaration Under 37 C.F.R. 1.132 of Kazuhiro Ono, the Examiners appeared to be persuaded that superior results are shown with respect to the relative showings

made in the Declaration, even though different amounts of dental calculus are included in each of the Examples. In particular, the Supervisory Patent Examiner indicated that a showing of a greater percentage of the dental calculus being dissolved in a shorter period of time appeared to be persuasive.

The Examiners noted that the showing in the Declaration is made with respect to an aqueous solution of *Perilla frutescen var. crispa*, and claims directed to this subject matter may be patentable over the prior art. The Examiners expressed that claims directed to aqueous solution of *Perilla frutescen var. crispa* containing polyphenol in combination with glycolic acid may be patentable subject to further search and consideration, but would not make a commitment as to patentability of this subject matter. Moreover, the Examiners discussed that it may be desirable to include in the independent claim an amount of polyphenol in the aqueous solution of *Perilla frutescen var. crispa*, and would consider language such as "in an amount effective to achieve dissolving of dental calculus."

The Examiners also indicated that the genus of polyphenols and various species may be patentable depending upon further representative showings.

Information Disclosure Statement

Applicants once again note that the initialed Form PTO-1449 attached to the February 27, 2008 Advisory Action is not completely initialed, because Item No. 1, i.e., English language Abstract of CN 1 105 558 (LUO), is not initialed. Applicants are therefore resubmitting another copy of the form, and request that the Examiner forward a completely initialed copy of the form with the next communication from the Patent and Trademark Office.

Response To Art-Based Rejections

The following rejections are set forth in the Final Office Action:

- (a) Claims 1, 4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,980,869 to Sanker et al. (hereinafter "Sanker").
- (b) Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhu WO 01/17494 to Zhu (hereinafter "Zhu") in view of U.S. Patent Application Publication No. US 2002/01561 30 A1 to Melman (hereinafter "Melman").
- (c) Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over in Melman in view of JP 2000-239136 to Oriza (hereinafter "Oriza").

Initially, Applicants once again note that a Declaration Under 37 C.F.R. 1.132 has been submitted on January 8, 2008, which shows the unexpected advantages associated with the recited combination of polyphenol and glycolic acid as compared to the individual use of polyphenol and glycol acid.

Applicants once again submit that for the reasons previously argued in their response filed January 8, 2008 and March 8, 2008, a *prima facie* cases of obviousness have not been established by any of the rejections of record. However, even if for the sake of argument a *prima facie* case of obviousness has been established in any of the rejections, unexpected results associated with Applicants' claimed subject matter are further evidence of patentability of Applicants' claimed subject matter.

As noted above, a Declaration Under 37 C.F.R. 1.132 has been submitted on January 8, 2008, which shows the unexpected advantages associated with the recited combination of polyphenol and glycolic acid as compared to the individual use of polyphenol and glycol acid.

The Declaration establishes that as compared to examples using polyphenol or glycolic acid, i.e., Examples 3 and 18 of Applicants' originally filed application, respectively, an example using a combination of polyphenol and glycolic acid achieves unexpected advantages.

In particular, in Example 3 wherein *Perilla frutescen var. crispa* polyphenol was used in the absence of inclusion of additional active ingredient, 50% weight of the dental calculus was dissolved after 105 minutes, and in Example 18 wherein glycolic acid was used in the absence of inclusion of additional active ingredient, 44% weight of the dental calculus was dissolved after 9 minutes. In contrast, Applicants note that when polyphenol and glycolic acid were utilized in combination, there is obtained a more rapid dissolving of the dental calculus, i.e., 50% weight of the dental calculus was dissolved after 6 minutes.

During the above-note interview, the Examiners appeared to agree that the relative showings in the Declaration were adequate. Moreover, the Examiners indicated that claims including an agent for dissolving dental calculus, which comprises an aqueous solution of *Perilla frutescen var. crispa* including polyphenol in an amount effective to achieve dissolving of dental calculus and glycolic acid as active ingredients may be patentable.

Accordingly, Applicants request that the Examiners reconsider and withdraw the rejections of record.

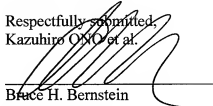
CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow each of the pending claims.

Applicants therefore respectfully request that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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